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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,949	03/10/2004	Gerald J. Van Handel	12244 C1C1	4840
31743 7590 10/18/2007 PATENT GROUP GA030-43 GEORGIA-PACIFIC LLC 133 PEACHTREE STREET, N.E. ATLANTA, GA 30303-1847			EXAMINER ELKINS, GARY E	
			ART UNIT 3782	PAPER NUMBER
			MAIL DATE 10/18/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/797,949

Applicant(s)

VAN HANDEL, GERALD J.

Examiner

Gary E. Elkins

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 20070111.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 28-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smith in view of Mitchell et al. Smith discloses a container including an outer substrate layer 306a and an inner shrink film layer 304a bonded to the outer layer at top and bottom seams. The shrink film is adapted to shrink away from the substrate upon application of heat to create a horizontal air pocket. Smith does not disclose formation of the container from a blank or formation of the substrate layer from paperboard. Official notice is taken that it is well known to form layered containers from a laminated blank which is subsequently wound or rolled into a container shape. Mitchell et al teaches that it is known to make the substrate layer in a cup from paperboard. It would have been obvious to form the container of Smith using a laminated blank in view of the well known formation of containers from blanks in this art since laminated blanks can be stored and shipped prior to assembly and are less costly than molding techniques such as injection molding or blow molding. It would further have been obvious to form the substrate layer in Smith from paperboard as taught by Mitchell et al since paperboard is well known and widely used as a substrate in cups and since paperboard provides good strength for the intended uses of a drinking cup. With respect to claim 29, it is noted that the shrink film of Smith is considered capable or adapted to shrink away at a temperature range of 180-190 degrees in that any shrink

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film is capable of such shrinkage dependent upon the time of exposure to the claimed range.

Therefor, no distinction is seen between the claimed film and that shown in Smith as a result of the claimed intended shrinkage temperature.

3. Claims 28-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP '474 in view of Silver et al. JP '474 discloses a container including an outer substrate layer and an inner shrink film layer bonded to the outer layer at the top. The shrink film is adapted to shrink away from the substrate upon application of heat to create a horizontal air pocket. JP '474 does not disclose formation of the container from a blank or formation of the substrate layer from paperboard. Official notice is taken that it is well known to form layered containers from a laminated blank which is subsequently wound or rolled into a container shape. Silver et al teaches that it is known to make the substrate layer in a cup from paperboard. It would have been obvious to form the container of JP '474 using a laminated blank in view of the well known formation of containers from blanks in this art since laminated blanks can be stored and shipped prior to assembly and are less costly than molding techniques such as injection molding or blow molding. It would further have been obvious to form the substrate layer in JP '474 from paperboard as taught by Silver et al since paperboard is well known and widely used as a substrate in cups and since paperboard provides good strength for the intended uses of a drinking cup. With respect to claim 29, it is noted that the shrink film of JP '474 is considered capable or adapted to shrink away at a temperature range of 180-190 degrees in that any shrink film is capable of such shrinkage dependent upon the time of exposure to the claimed range. Therefor, no distinction is seen between the claimed film and that shown in JP '474 as a result of the claimed intended shrinkage temperature.

Response to Arguments

4. Applicant's arguments filed 01 August 2007 have been fully considered but they are not persuasive.

The remarks assert that the patent to Smith does not disclose a layer consisting essentially of a single shrink film layer insofar as Smith discloses a "side wall constituted of multiple layers that thermally respond to the presence of fluid at least...". In response, Smith discloses a layer 304A which not only consists essentially of a single shrink film layer but further consists entirely of a single shrink film layer. No distinction is seen between the claimed layer and layer 304A of Smith. It is noted that Smith discloses multiple embodiments with respect to figs. 3a-3b as set forth in col. 3, lines 17-30 where the layers 302A and 306A can either be constituted by conventional materials which are thermally unresponsive or may be alternatively be thermally responsive.

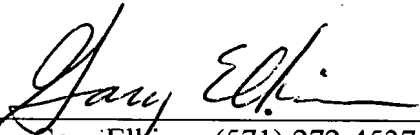
With respect to the Japanese publication 06-219,474, note is made of the cited English language abstract and claims which indicate disclosure of a paper container with an inner layer of shrink film forming an insulation pocket within the container upon the application of heat. The reference is also considered to relate to the obviousness of making the container from paperboard as set forth in the amended claims.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.



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October 14, 2007

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